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8
9 **UNITED STATES DISTRICT COURT**
10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12
13 PATRICK S. RYAN,

14 Plaintiff,

15 v.

16 DONALD J. TRUMP, in his official capacity as
President of the United States of America,

17 and

18
19 WILBUR L. ROSS, JR., in his official capacity
as United States Secretary of Commerce,

20 Defendants.
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Case No. 3:20-cv-05948 (VGC)

**NOTICE OF MOTION AND MOTION
FOR LEAVE TO FILE AMICUS BRIEF
OF ELECTRONIC FRONTIER
FOUNDATION, RYAN JACKSON, AND
JYNX IN SUPPORT OF PLAINTIFF'S
REQUEST FOR A TEMPORARY
RESTRAINING ORDER**

Date: September 15, 2020
Time: 9:00 a.m.

Complaint Filed: August 24, 2020

1 TO EACH PARTY AND ATTORNEYS OF RECORD IN THIS ACTION:

2 PLEASE TAKE NOTICE that Electronic Frontier Foundation, Ryan Jackson and Jynx
3 respectfully move this Court for leave to file a brief as *amici curiae* in support of Plaintiff's request
4 for a temporary restraining order.

5 STATEMENT OF INTEREST

6 *Amici curiae* are the Electronic Frontier Foundation (EFF) and TikTok users Ryan Jackson
7 and Jynx. All wish to address the First Amendment rights of freedom of speech and assembly.

8 Electronic Frontier Foundation (EFF) is a non-profit civil liberties organization with more
9 than 30,000 dues-paying members, bound together by a mutual and strong interest in helping the
10 courts ensure that such rights remain protected as technologies change, new digital platforms for
11 speech emerge and reach wide adoption, and the Internet continues to re-shape governments'
12 interactions with their citizens. EFF frequently files *amicus* briefs in courts across the country,
13 including, relevant here, a brief to the Supreme Court in *Packingham v. North Carolina*, 137 S. Ct.
14 1730 (2017).¹

15 Ryan Jackson and Jynx are two prominent TikTok users that both have thousands of
16 followers. They both use TikTok to share their views on a range of political matters because the
17 TikTok platform allows them to reach more diverse users than they are able on other social media
18 platforms.

19 ARGUMENT

20 Amici are deeply concerned about Executive Order 13492, which has a direct and arguably
21 intentional effect on millions of people's First Amendment rights to communicate free of
22 government interference. Accordingly, this Court must closely scrutinize it. The U.S. Supreme
23 Court has recognized that the protections of the Bill of Rights often work in conjunction and must
24 be evaluated together. Applying that principle in this case, it is clear that the Executive Order's
25

26 ¹ See *Amicus Curiae Brief of Electronic Frontier Foundation, Public Knowledge, and Center for*
27 *Democracy & Technology in Support of Petitioner, Packingham v. State of North Carolina* (Sup.
28 Ct. No. 15-1194), https://www.eff.org/files/2016/12/22/2016-12-22_-_packingham_v._nc_-_amicus_brief_of_eff_pk_and_cdt.pdf.

1 effect on the First Amendment rights of the community of TikTok users warrants a more thorough
2 and exacting review of the equal protection, due process and vagueness arguments raised by the
3 Plaintiffs.

4 All parties consent to the filing of this brief. The brief complies with this Court's standing
5 order and does not exceed 10 pages. Amici respectfully request that the Court grant the motion and
6 accept the attached brief.

7 DATED: September 11, 2020

Respectfully submitted,

8 /s/ David Greene

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